Appeal Nos. 17-7035

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

American Society for Testing and Materials; National Fire Protection Association, Inc.; American Society of Heating, Refrigerating, and Air-Conditioning Engineers, Inc.,

Appellees,

v.

Public.Resource.Org, Inc.,

Appellant.

Appeal from the United States District Court for the District of Columbia,
Hon. Tanya S. Chutkan, Case Nos. 1:13-cv-01215-TSC-DAR
and 1:14-cv-00857-TSC-DAR (consolidated)

STATEMENT OF ISSUES TO BE RAISED

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Attorneys for Respondent
Public.Resource.Org, Inc.,

April 6, 2017

Pursuant to the Clerk's Order of March 7, 2017, Defendant-Appellant Public.Resource.Org, Inc. submits the following preliminary statement of issues to be raised:

1. Did the district court err by enjoining Public.Resource.Org?

2. Did the district court err in holding that Plaintiff-Appellees can assert copyright in, and thus limit the ability of people to read and communicate, the text of standards that are legally binding due to incorporation into state and federal laws and regulations?

3. Did the district court err in holding that Public.Resource.Org's posting of standards that are legally binding due to incorporation into state and federal laws and regulations, in the course of building a publicly accessible archive of government edicts, was not a fair use?

4. Did the district court err in holding that Public.Resource.Org's posting of standards that are legally binding due to incorporation into state and federal laws and regulations, which contain Plaintiff-Appellees' names and logos as part of their text, constituted trademark infringement?

5. Did the district court err in holding that Plaintiff-Appellees own copyrights in standards that are legally binding due to incorporation into state and federal laws and regulations, despite undisputed evidence showing that Plaintiff-Appellees were not the authors of those standards?

6. Did the district court err by declining to strike a purported expert report of John Jarosz that applied no specialized knowledge, experience, or expertise, but merely repeated the subjective opinions of Plaintiff-Appellees' employees and officers?

7. Did the district court err by declining to strike a purported expert report of Dr. Kurt Geisinger that applied no specialized knowledge, experience, or expertise, but merely repeated the subjective opinions of Plaintiff-Appellees' employees and officers, and who failed to disclose his opinions in his expert report, and submitted unreliable conclusions?

8. Did the district court err by making evidentiary rulings against Public.Resource.Org, and failing to sustain Public.Resource.Org's evidentiary objections regarding Plaintiffs' motion for summary judgment?

Dated: April 6, 2017

FENWICK & WEST LLP

By: */s/ Andrew P. Bridges*
Andrew P. Bridges

Attorneys for Respondent
Public.Resource.Org, Inc.,

CERTIFICATE OF SERVICE

I, Andrew P. Bridges, hereby certify that on April 6, 2017, I electronically filed the foregoing STATEMENT OF ISSUES TO BE RAISED with the United States Court of Appeals for the District of Colombia Circuit through the Court's CM/ECF system, which will serve all Counsel who are registered CM/ECF users.

Dated: April 6, 2017

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